S.B. Cr. Revision Petition No.877/2006
Mani Ram & Ors.
vs
State of Rajasthan & Anr.

DATE OF ORDER : 11.1.2007

HON'BLE JUSTICE SHRI G.S. SARRAF

Shri S.S. Dhillon, for the petitioners.
Shri S.N. Tiwari, Public Prosecutor.
Shri H.S. Sandhu, for the respondent no.2.

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Heard Shri S.S. Dhillon, learned counsel for the petitioner, Shri S.N. Tiwari, learned Public Prosecutor and Shri H.S. Sandhu, learned counsel for the respondent no.2.

Under Section 401(2) Cr.P.C. no order can be made to prejudice the accused or other person unless he has had an opportunity of being heard either personally or through counsel in his own defence. A bare reading of sub-section (2) of Section 401 Cr.P.C. makes it clear that while exercising revisional jurisdiction, no order should be made to the prejudice of the accused or other person without affording an opportunity of being heard to him. It is not disputed here that the petitioners were not made parties and were not given an opportunity of being heard by the revisional court Addl. Sessions Judge No.1, Sri Ganganagar and the order dated 1.8.2006 was passed at the

back of the petitioners. The order so passed by the revisional court at the back of the petitioners is not sustainable and is liable to be set aside.

Consequently, this revision petition is allowed, the order dated 1.8.2006 of Addl. Sessions Judge No.1, Sri Ganganagar is set aside and the matter is remitted to the Addl. Sessions Judge No.1, Sri Ganganagar with a direction to pass fresh order after giving an opportunity of hearing to both the parties. The parties are directed to remain present in the court of Addl. Sessions Judge NO.1, Sri Ganganagar on 5.2.2007.

(G.S. SARRAF), J.

cpgoyal/-